

SEC. 10-1.2800 ADMINISTRATION AND ENFORCEMENT

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SEC. 10-1.2805 ADMINISTRATION AND ENFORCEMENT OFFICER PLANNING DIRECTOR.

Planning Director shall have the duty and authority to administer and enforce this Ordinance. The words "Planning Director" shall include the Planning Director's designee(s) as well.

SEC. 10-1.2810 ZONING COMPLIANCE.

- a. No structure or fence may be erected, maintained, moved, expanded, or structurally altered, nor may any use be established without approval by the Planning Director, pursuant to the provisions of this ordinance.
- b. Verification of zoning compliance is required for any new structure or fence, the enlargement or alteration of an existing structure, and any change in the use or occupancy of land. Verification of zoning compliance must be officially noted on required licenses and permits by the Planning Director and is subject to all applicable provisions of this ordinance, including conditions of approval through use permit, variance, site plan review and similar procedures.
- c. Verification of zoning compliance is void when the approved permit or license lapses or is found by the City or a court of competent jurisdiction to have been obtained by fraud or to have been issued in error.
- d. All applications for building permits requiring zoning approval must be accompanied by a plot plan drawn to scale, showing:
 - (1) Lot shape and dimensions.
 - (2) Dimensions and location of existing structures.

- (3) Dimensions and location of proposed structures and additions.
 - (4) Existing and proposed uses of structures and land.
 - (5) Number of dwelling units in proposed and existing structures.
 - (6) Other features necessary to determine conformance with, and to provide for, the enforcement of this ordinance.
- e. Prior to authorization for occupancy, including authorization for gas or electric meter service, City officials shall ensure that the use, arrangement, construction, and improvements are in accordance with plans approved through the verification of zoning compliance procedures.

SEC. 10-1.2815 APPLICATION.

- a. Application for project approval(s) shall be on a form as prescribed by the Planning Director and shall be signed by the applicant and by an owner of the property or the owner's authorized representative. The application shall be submitted to the Planning Division and shall be accompanied by payment of a fee, as established by resolution of the City Council.
- b. With the exception of a single-family residence and additions to commercial and industrial buildings whose floor area constitutes less than 25 percent of the ground floor area of the building to which the addition will take place, plans shall be prepared, signed and endorsed by qualified professional practitioners, including a licensed architect, a licensed building designer, a licensed land surveyor, a registered civil engineer, and a registered landscape architect, all of whom prepare plans in their respective fields.
- c. Each application shall be accompanied by:
 - (1) A scaled map or diagram of the property;
 - (2) A statement describing the existing improvements or use of the subject property and any proposed changes;
 - (3) Other documents or information in such form and number as may be required by the Planning Director, including, but not limited to, title reports, dimensioned architectural drawings showing elevations of existing and proposed buildings, existing and proposed landscaping and other ground treatment, required parking facilities and circulation, provisions for refuse, fencing, lighting, storage, signs, proposed open space, building materials and drainage facilities, and existing and proposed grades.
- d. No application shall be set for hearing or acted upon until it is deemed complete by the Planning Director.

SEC. 10-1.2820 NOTICE.

- a. Unless otherwise provided, all required notices shall be given by first class mail and shall include the name of the applicant, the purpose of the application and the location of the property. All notices shall be mailed to the applicant and owner, or the owner's authorized representative, and to the owners and occupants of all parcels within 300 feet of the perimeter of the subject property as shown on the latest equalized assessment roll. Notice may be given to the owners of all other parcels that, in the judgment of the Planning Director, may be substantially affected by the decision. If not included in the above, on an appeal, the appellant also shall receive notice.
- b. Notice of a decision by the Planning Director on a site plan review, administrative use permit, a variance, or administrative reduction in lot size which exceeds ten percent of the yard requirement shall be given within five business days of the decision.
- c. Notice of a public hearing on a matter going before the Planning Commission or the City Council, whether as a matter of course, on referral, or on appeal, shall be given at least 10 days prior to the public hearing and shall include the date, time and place of hearing. If a hearing is continued to a specified date and time, no further notice need be given.
- d. Defects in information on a notice or the failure of any or all of the addressees to receive the notice given pursuant to this Ordinance shall not invalidate the proceedings, provided that such defect or failure has not occurred in bad faith.
- e. Notice by publication may be provided in lieu of or in addition to individual notice when deemed warranted by the number of notice recipients or where otherwise required by law.

SEC. 10-1.2825 DECISIONS. PUBLIC HEARINGS AND EFFECTIVE DATES.

- a. The decision of the Planning Director on a site plan review application, an administrative use permit application, a variance application, or reduction in required lot or yard area by no more than 10 percent of that required, may be made without holding a public hearing. Unless appealed, a decision by the Planning Director shall become final on the 16th day following the day the decision is rendered.
- b. Decisions made by the Planning Commission and the City Council shall be made after the conduct of a noticed public hearing by the decision-making body. Unless appealed, a decision of the Planning Commission shall become final on the 11th day following the day the decision is rendered. Decisions by the City Council are effective immediately or upon the effective date of a given ordinance, if applicable. When the day on which a decision would be final is a Saturday, Sunday or legal holiday, the decision shall become final on the second business day thereafter.

SEC. 10-1.2830 CONFORMANCE - ADMINISTRATIVE MODIFICATION.

- a. Permits and licenses issued on the basis of plans and applications approved by the Planning Director are valid only for uses, arrangements, and construction set forth as approved. Any use, arrangement, or construction other than that authorized is a violation of the Zoning Ordinance.
- b. The Planning Director may administratively approve minor modifications to an approved permit or the conditions of approval so long as the changes do not materially alter the design, site layout, or conditions of approval of said permit.
- c. The Planning Director may administratively reduce any yard requirement by 50 percent or any required lot size standard by 10 percent in any district if in the opinion of the Planning Director no practical alternative exists, the purpose of the district would not be compromised, no detrimental impact would result aesthetically, and the proposed use or construction otherwise complies with the City's land use and Building Code regulations. Any departure that exceeds 10 percent of such required standards is subject to notice as provided for in Section 10-1.2820 and appeal provisions as outlined in Section 10-1.2845.
- d. The Planning Director may administratively waive the requirement for approval of a conditional use permit (where only required because abutting district is residentially zoned) or variance application where the Planning Director determines that the property abutting the proposed use or construction is used for State or Federal highway right-of-way, flood control channel, railroad right-of-way or similar uses, and provided said waiver will not compromise the purpose of the district and no detrimental impact will result.

SEC. 10-1.2835 DISTRICT USES NOT SPECIFIED.

When a proposed use is not listed in a district where other uses of the same general character are specified, the Planning Director may interpret the Ordinance to include said use as comparable to a primary or conditional use in said district.

SEC. 10-1.2840 ADMINISTRATIVE REFERRAL.

When there is a question regarding the interpretation of this ordinance, or its application to any specific case or situation, the Planning Director may refer said question to the Planning Commission for purposes of Ordinance interpretation, according to the role and responsibilities of said Commission as specified elsewhere in this Ordinance or in the Hayward Municipal Code.

SEC. 10-1.2845 APPEAL AND REVIEW PROCESS.

- a. If an application has been denied by the Planning Director, the applicant may appeal the denial. If an application is approved, an appeal may be filed by the applicant, by any person entitled under the law to receive notice, or by any persons who will be or may reasonably be expected to suffer a negative impact as a result of the approval.

- b. All appeals must be filed in the Planning Division prior to the effective date of the decision being appealed. Appeals must be in writing and must set forth the specific action appealed from, the specific grounds of the appeal, and the relief or action sought. Except where an appeal is filed by a public official performing public duties, the written appeal must be accompanied by a fee, as established by resolution of the City Council.
- c. The timely filing of a notice of appeal shall cause a stay in the operative effect of the action, Permit or decision from which the appeal has been taken until a decision on the appeal is rendered.
- d. In accordance with Section 10-1.2820, notice of the action on the appeal shall be given to the appellant and to all those who received notice of the application.
- e. Appeals from determinations made by administrative action shall be heard by the Planning Commission. Appeals from action taken by the Planning Commission shall be made to the City Council.
- f. City Councilmember Call-Up.
 - (1) Any member of the City Council may request review of an application on which the Planning Director or the Planning Commission has made a final decision.
 - (2) The Council member requesting review of an application shall file a written request for review with the City Clerk on or before the 10th day following the day the decision is rendered by the Planning Commission, or on or before the 15th day following the day the decision is rendered by the Planning Director.
 - (3) The matter shall thereafter be scheduled for review and a decision rendered by the City Council.
 - (4) The City Council may approve, conditionally approve, or disapprove the application based upon the relevant information and findings.
 - (5) In the event significant new evidence, which may include change in the proposal, is presented at the time of hearing, the Council may return the matter to the approving authority for further consideration and a decision.
 - (6) If the application has previously been subject to notice under Section 10-1.2820, it shall be scheduled for a hearing by the City Council and noticed in accord with Section 10-1.2820.
 - (7) No fees by the applicant shall be required when a member of the City Council requests review of an application.

SEC. 10-1.2850 VIOLATIONS AND PENALTIES.

- a. Any person violating any provision of this Ordinance or failing to comply with any approved plans or conditions, shall be guilty of an infraction or misdemeanor as set forth in Chapter 1, Article 3 of the Hayward Municipal Code.
- b. Whenever there exists cause to suspect a violation of any provision of this Ordinance, the official responsible for enforcement may enter on any site or into any structure for the purpose of investigation. No secured building shall be entered without the consent of the owner or occupant or agent thereof. The owner or occupant or agent thereof who refuses to permit entry and investigation shall be guilty of an infraction.
- c. The procedures for abatement of an infraction set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances and regulations or abating public nuisances in any other manner provided by law.
- d. Any violation of this ordinance shall be a public nuisance and may be abated as such. Nothing in this Ordinance shall be deemed to prevent the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law.
- e. Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code section 36900. After a third conviction for a violation of the same provision, subsequent violations within a 12-month period may be charged as a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code section 36901.
- f. Each day that a violation or failure to comply continues shall be deemed a separate offense and may be punished as such.

The remedies provided for herein shall be cumulative and not exclusive.